
STATUTORY INSTRUMENTS

1998 No. 364

The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998

Special cases

Civil servants transferred to the Scottish Environment Protection Agency

21.—(1) The 1998 Regulations apply with the following modifications to a member who is employed by the Scottish Environment Protection Agency as a result of a relevant statutory transfer immediately before which he was a pensionable civil servant.

- (2) At the end of regulation 12(2) (exclusions from “pay”) add the words— “or
- (h) the amount of any supplement paid by the Scottish Environment Protection Agency in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme”.
- (3) In regulation 30 (early leavers: deferred retirement benefits and elections for early payment)—
- (a) in paragraph (1) for the words “may elect to receive payment of them immediately” substitute the words “is entitled, on his so requesting the administering authority in writing, to receive payment of those benefits in respect of his SEPA service immediately or, at his option, at any time before he attains the age of 60”;
- (b) omit paragraphs (2), (3) and (8);
- (c) in paragraph (4) for the words from the beginning to “85 years” substitute the words “If the member has not attained the age of 60”;
- (d) in paragraph (7) for “NRD” substitute the words “60th birthday”;
- (e) at the end add the following new paragraph:—
- “(9) In this regulation “SEPA service” means—
- (a) the period during which the person concerned has remained an active member and in continuous employment of the Scottish Environment Protection Agency following a relevant statutory transfer (as defined in regulation 21(6) of the Transitional Regulations); and
- (b) where a transfer value has been accepted from the Principal Civil Service Pension Scheme made under section 1 of the Superannuation Act 1972 and referred to as such in section 2(10) of that Act, the period of membership which he was entitled to count under regulation J9(1)(a) of the 1987 Regulations.”.

(4) The employment with the Scottish Environment Protection Agency referred to in paragraph (1) does not count as new employment for regulation 109 (statements of policy concerning abatement of retirement pensions in new employment) or regulation 110 (application of abatement policy in individual cases).

(5) The 1998 Regulations and these Regulations shall have effect, so long as the member remains an active member and in continuous employment of the Scottish Environment Protection Agency,

as if they conferred on the member the same rights relating to service overseas as he would have enjoyed if he had remained subject to the principal civil service pension scheme.

- (6) A relevant statutory transfer in relation to a member is a transfer of his employment—
- (a) which took place on 1st April 1996 as a consequence of a transfer of functions on that date to the Scottish Environment Protection Agency; or
 - (b) which took place as a consequence of a transfer to the Scottish Environment Protection Agency of the undertaking in which he was formerly employed to which the Transfer of Undertakings (Protection of Employment) Regulations 1981(1) apply.

(7) A pensionable civil servant is a person who is employed in the civil service of the State and is a member, or is eligible to be a member, of the principal civil service pension scheme.

Former members of NHS Superannuation Scheme for Scotland

22.—(1) The 1998 Regulations apply with the modifications mentioned in paragraphs (3) to (5) to a member—

- (a) who became an active member immediately after being transferred to employment by the governing body of a university or designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992(2) or by the board of management of a college of further education within the meaning of Part I of that Act as a consequence of a transfer to the governing body or board of management on 1st September 1996, or in the case of a transfer to the governing body of the Robert Gordon University on 1st December 1996, of the undertaking in which he was employed, to which transfer the Transfer of Undertakings (Protection of Employment) Regulations 1981 apply;
- (b) who immediately before that transfer was employed by a health board and was a member, or was eligible to be a member, of the pension scheme the rules of which are set out in the National Health Service Regulations; and
- (c) who since that transfer has been an active member in relevant local government employment.

(2) In regulation 30 of the 1998 Regulations (early leavers: deferred retirement benefits and elections for early payment)—

- (a) in paragraph (1) for the words “may elect to receive payment of them immediately” substitute the words “is entitled, on his so requesting the administering authority in writing, to receive payment immediately of those benefits in respect of his relevant local government employment and transferred service”;
- (b) omit paragraphs (2), (3) and (8);
- (c) in paragraph (4) for the words from the beginning to “85 years” substitute the words “If the member has not attained the age of 60”;
- (d) at the end add the following new paragraph:—

“(9) In this regulation—

“relevant local government employment” has the meaning given in regulation 22(5) of the Transitional Regulations;

“transferred service” means, where on the transfer referred to in regulation 22(1)(a) of the Transitional Regulations a transfer value has been accepted in respect of a person’s accrued rights from the National Health Service Superannuation Scheme for Scotland constituted under the National Health Service Superannuation Scheme

(1) S.I.1981/1794; the definition of “undertaking” was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.
 (2) 1992 c. 37.

(Scotland) Regulations 1995, the period of membership which he was entitled to count under regulation J9(1)(a) of the 1987 Regulations.”

(3) Regulation 56 of those Regulations (effect of increases under Chapter III of Part III for older members) does not apply to so much of any period counted under that Chapter as is attributable to contributions paid under a contract—

- (a) which was deemed by paragraph 5 of Schedule 16B to the 1987 Regulations to have been made pursuant to an election under regulation C5 or C6 of those Regulations;
- (b) under which contributions were being made immediately before the commencement date; and
- (c) which is treated as continuing under regulation 14.

(4) For regulation 123 of the 1998 Regulations (rights as to service not matched by credited period), in the case of the transfer mentioned in paragraph (1) member’s transferred-in service means any service which for the National Health Service Regulations the member was entitled to count in relation to employment in which he was an officer (as defined in those Regulations) for determining whether he was entitled to a benefit under those Regulations, but for no other purpose.

(5) In this regulation—

“the National Health Service Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 1995(3);

“relevant local government employment” means a continuous period of employment as an active member comprising—

- (a) the period, immediately following the transfer to employment by a governing body or board of management in terms of paragraph (1)(a), of employment by that governing body or board of management during which the member was continuously engaged in the work of the undertaking in which he was previously employed or in the work of another undertaking transferred to that governing body or board of management as mentioned in paragraph (1)(a); and
- (b) any further periods, immediately following the period described in sub-paragraph (a) and each other, of employment by another governing body or board of management of the kind specified in paragraph (1)(a) during which the member was continuously engaged in the work of an undertaking transferred to that governing body or board of management as mentioned in paragraph (1)(a).

Community scheme transferees

23.—(1) Community scheme transferees and their surviving spouses, dependants and children are entitled to such rights under the Scheme as are specified in guidance issued by the Government Actuary.

(2) A Community Scheme transferee is a person—

- (a) who became employed by a Community institution after having been employed in local government employment;
- (b) in respect of whom the scheme managers of the Communities' scheme were paid a transfer value under Chapter IV of Part IV of the Pension Schemes Act 1993(4) or Part J of the 1987 Regulations or any corresponding earlier provisions; and
- (c) whose fund authority (as defined in regulation 116 of the 1998 Regulations) have been repaid for the credit of their pension fund an amount which in accordance with that guidance may be treated as equivalent to that transfer value.

(3) S.I. 1995/365, amended by S.I. 1997/1434 and 1916.

(4) 1993 c. 48.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) The rights to which any person is entitled by virtue of guidance under this regulation must not be less valuable than those to which he would have been entitled if regulation J6 of the 1987 Regulations still applied to him.